

✓ Internal Revenue Service

**memorandum**

CC:TL-N-9943-86

Br3:MNelson

date: NOV 13 1986

to: District Counsel, Hartford CC:HAR

from: Director, Tax Litigation Division

subject:

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Your ref: CC:HAR-TL-ARCeccherini

This responds to your memorandum dated September 25, 1986, in which you requested supplemental technical advice on an issue previously submitted to this office for technical advice on January 10, 1986. In your request of January 10, 1986, you outlined a problem likely to arise upon audit of the income tax returns of the owners of real estate in the ██████████. The issue was stated as follows.

Whether amounts paid by condominium unit owners to a tax district created for the operation and maintenance of the common areas of the condominium homeowners association are deductible as property taxes paid to a political subdivision under the provisions of I.R.C. section 164, when carried out under Connecticut's tax district enabling statute.

By a memorandum dated February 4, 1986, we advised you that it is the opinion of the National Office that the payments in question do not meet the definition of "real property taxes" in sections 1.164-3(b) and 1.164-4(a) of the Treasury Regulations but, rather, are more in the nature of user fees for particular services and facilities, the benefit of which is restricted to the owners of the property upon which the amounts are levied. Accordingly, the amounts paid to the ██████████ are not deductible under the express provisions of I.R.C. section 164(c) and section 1.164-4(a) of the Treasury Regulations.

Taxpayer's counsel, by a memorandum dated ██████████, and a letter dated ██████████, has attempted to rebut our conclusion that the amounts paid to the ██████████ are not deductible by arguing that the ██████████ is a "political subdivision," as that term is used in section 164(b)(3), and denying that the amounts paid are for the exclusive benefit of the property owners in the ██████████. In response to the taxpayer's arguments, your memorandum of September 25, 1986, which requested additional technical advice, phrased the issues as follows:

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1. Whether the [REDACTED] should be classified as a political subdivision?

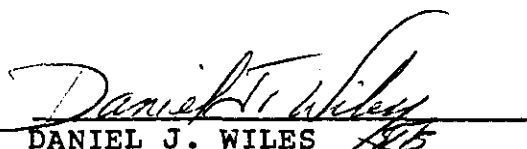
2. Whether the amounts paid to the [REDACTED] are taxes paid to a political subdivision, and constitute taxes for a local benefit?

It is our view that the technical advice rendered on February 4, 1986, is dispositive of all of the issues raised by the disallowance of a deduction for real property taxes for the amounts paid to the [REDACTED]. We agree with your conclusion that the [REDACTED] is not a political subdivision. We do not think it is necessary to make that determination, however, in order to conclude that it is improper to deduct the amounts paid to the [REDACTED] because the amounts paid are not "real property taxes" within the meaning of section 1.164-3(b) of the Treasury Regulations. (This conclusion is explained fully in our memorandum of February 4, 1986.) Thus, even if the [REDACTED] is a political subdivision, the payments made to it are not deductible by the homeowners in the [REDACTED].

In summary, we agree with the conclusion of your office that the [REDACTED] is not a political subdivision, and we reiterate our original opinion that the amounts paid are not deductible as real property taxes.

ROBERT P. RUWE  
Director

By:

  
DANIEL J. WILES  
Chief, Branch No. 3  
Tax Litigation Division